Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Petition Pursuant to 47 U.S.C. § 160(c)	)	WT Docket No. 02-377
For Forbearance from E911	)	
Accuracy Standards in Section 20.18(h)	)	
of the Commission's Rules	)	

CORR WIRELESS COMMUNICATIONS, LLC'S COMMENTS IN SUPPORT OF TIER III COALITION PETITION

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Corr Wireless Communications, LLC ("Corr"), pursuant to the Public Notice DA 02-3470, released December 17, 2002, hereby submits its Comments in support of the Petition for Forbearance filed November 20, 2002, by Tier III Coalition ("Tier III"). Corr is itself a Tier III wireless carrier in northern Alabama which is struggling with many of the same obstacles to meeting the Commission's Phase II E-911 accuracy requirements as Tier III. This Comment vigorously supports limited forbearance from strict compliance with Phase II accuracy standards. Tier III essentially proposes that Tier III carriers be permitted to install a Phase II network solution at their existing cell locations (and presumably any additional cell locations constructed to handle normal non-Phase II traffic requirements) and that operation of such a network solution would satisfy Phase II obligations even if, under real world conditions, the achievable accuracy levels fell somewhat outside the levels currently prescribed by the rules. Corr wholly agrees that forbearance is justified by the special circumstances of small rural carriers, but Corr believes that any such forbearance should also apply to hybrid solutions where ALI-enabled handsets require assistance from network facilities to locate a caller. This would be true of carriers like Corr who are converting their systems to GSM and then using the handset solution

to meet the requirements of Section 20.18. Because this conversion process is already underway and the practical deadline for being able to meet the September, 2003 compliance date is fast approaching, expedited action by the Commission on this forbearance petition is urgently requested. Furthermore, it is unclear at this time when the necessary equipment will be available for 850 MHz GSM cell sites. Corr's GSM supplier, Nortel Network, has previously advised the Commission that the process of deploying its network upgrades may require a phase-in to avoid swamping its capacity.

I. BACKGROUND

Historically, both Congress and the FCC have recognized that rural telecommunications carriers are faced with special service problems not faced by their urban fellows. The bedrock problem for any rural utility, whether it be electrification, mail service, or telecommunications service, is that is that there are fewer subscribers spread out over wider areas; from an economic standpoint, the costs of providing service are therefore greater and the pool over which these costs can be recovered is smaller. As a nation, we have addressed this practical reality by subsidizing rural utilities through rural electric loans and the like. In the telecommunications context, Congress has not only established a universal service fund (§ 254(e)) as a direct subsidy to rural carriers, but also provides various other forms of relief. See, for example, 47 U.S.C. § 251(f) (rural LECs exempted from certain interconnection requirements); 47 U.S.C. § 309(j)(3)(A), (j)(3)(B), and (j)(4)(D) (FCC directed to facilitate spectrum acquisition by rural telcos). In keeping with this long-standing national policy, the FCC itself has consistently recognized the special problems of rural carriers by making accommodations in its rules. See, for example, 47 C.F.R. § 20.6 (former spectrum cap liberalized for rural service areas); 47 C.F.R. § 20.20 (rural telcos exempt from separate affiliation and joint marketing rules).

Congress and the Commission have therefore correctly recognized that "one size fits all" regulatory treatment is inappropriate for rural and urban carriers.

II. IN RURAL AREAS, LESS PRECISION IS POSSIBLE AND LESS PRECISION IS REQUIRED

As E-911 developed and as the burden of paying for it shifted to the carriers, the rules failed to acknowledge that the very same considerations which warrant subsidies and lighter regulatory burdens for rural carriers in other aspects of regulation are equally applicable here. As Tier III's presentation underscores, rural CMRS systems are deliberately designed to address circumstances where there are few subscribers spread over wide areas. Service is often provided not via the overlapping, highly cellularized cell sites found in cities, but rather in strings of wide area cells along rural highways or discrete valleys. This network configuration is the most economically rational way to provide service on an affordable basis to subscribers in more remote areas. The practical effect of this necessary network configuration is that rural cellular and PCS systems do not have the redundant cell sites and triangulation potential which significantly aid urban carriers in meeting the accuracy levels specified by the rules.

In addition to these network-related constraints, the Commission has already recognized that small rural carriers do not have the economic clout to demand the development of Phase II-compliant TDMA handsets for their systems or to otherwise drive the E-911 equipment-manufacturing pipeline. The Commission at last came to a partial recognition of the special difficulties of rural carriers by granting Tier III carriers an extension of time through September 1, 2003, to provide Phase II. The problem, as Tier III points out, is that a mere extension of time does not solve the underlying dilemma that rural network configurations are not conducive to precision location techniques.

The question of how to deliver Phase II service to rural areas must be viewed in the light of the lesser need for Phase II in such areas. In Limestone County, the first jurisdiction in Corr's service area to request Phase II service, Corr has a total of about 250 subscribers. In the last seven months, only about 260 of 14,000 Phase I emergency calls were placed in Limestone County. Given this degree of usage, Corr could be investing significant dollars to enhance the E-911 capability for about 500 calls per year in that county. Under any prudent cost/benefit analysis, no one would order service at a cost of thousands of dollars per emergency call. Even amortized over 10 years, $100.00 - $200.00 per emergency call could not be rationally justified. The demand is just not great enough to justify the enormous cost necessary to deliver Phase II in a county with little traffic.

Costs increase exponentially if installation of additional new cell sites is required solely to provide the degree of triangulation necessary to meet the Phase II accuracy standards. A new cell site can cost anywhere from $50,000 to over $250,000 to acquire, construct and optimize. It is not at all inconceivable that a carrier might well make the rational economic decision not to provide service to the most rural parts of its service areas at all rather than bear the added costs of meeting Phase II accuracy requirements. In that case, the residents of those areas will not only be denied the benefits of CMRS service generally but will obviously also be denied the very safety benefits which the Commission is trying to expand. Instead of having a pretty good Phase I E-911 service, they will have no service at all. This is a clear example of the best being the enemy of the good.

In that connection, Corr notes that it has been providing Phase I service since those rules went into effect in 1998. Having carried an estimated 14,000 911 calls in just the last seven months, Corr is aware of only a handful of cases where the Public Safety personnel were unable

to locate an emergency caller simply on the basis of the Phase I call itself. In those cases, Corr was able to respond to requests for more precise information by informally working with Public Safety to steer them more precisely to the caller's location. In another case, a Phase I emergency caller was located in a remote cave, and the emergency personnel were able to locate her simply on the basis of the Phase I information. To place 14,000 calls in perspective, in that same time period, the system processed approximately 100 million calls.

These years of experience tend to strongly corroborate the central point of Tier III's presentation. If Phase I service has already been fairly effective, the addition of Phase II enhancements, even if not quite up to the levels required by Section 20.18, should be more than adequate to permit the location of callers. In a rural environment characterized by widely separated buildings, low population density, relatively open spaces, and roads with few intersections, emergency personnel simply do not require the same degree of precision to locate an emergency caller as would be needed in a dense urban environment with tightly packed, multi-story buildings laid out in a grid road pattern. Different circumstances call for different solutions. In the rural context, partial forbearance is entirely appropriate.

III. HYBRID SOLUTIONS CANNOT GUARANTEE ACCURACY LEVELS

Corr has begun construction of an overlay of a GSM network on top of its existing TDMA network. This kind of overlay is a major undertaking for any carrier, much less a small rural one, but Corr is making the investment both to enhance long-term service to its customers and to enable more economical provision of Phase II service. The GSM solution is a hybrid one involving both ALI-enabled handsets and network upgrades to process the data received from the handsets. We must reiterate, however, that *any* solution to E-911 Phase II which relies on network components will raise the same problem identified by Tier III. Where cell sites are so

deployed as to preclude triangulation, there is no assurance that the precise degree of accuracy demanded by the rules can be achieved. None of the tests done to date demonstrate conclusively that any network or hybrid solution can actually meet the FCC's requirements. To be sure, the vendors of this equipment have represented that their equipment can meet the standards, but it is not they who will have to reckon with the FCC if they fail to meet that promise. As small carriers, Tier III carriers cannot make the Phase II vendors improve the accuracy or reliability of their systems – even the largest carriers seem to be having trouble doing that. To the extent that the Commission, in adopting Phase II rules, has relied heavily on the equipment vendors' representations that their equipment will be capable of achieving high accuracy standards, rural carriers who install such equipment should be permitted to rely on those same representations. In other words, as requested by Tier III, if the rural carriers install equipment which has been represented to the Commission as delivering Phase II accuracy, the rural carriers should be deemed to be compliant even if, under rural conditions, the actual level of accuracy falls somewhat short.

IV. TRANSACTIONAL SITUATIONS

One aspect of the Phase II problem which the Commission has not addressed is what to do in situation where systems subject to Phase II compliance deadlines are changing hands. As these deadlines approach, there are bound to be system owners who have not undertaken the investment to bring the systems up to Phase II compliance levels, including the levels suggested here. We envision situations where the systems cannot be sold because any prospective new owner would be faced with an impossible task of rapidly meeting Phase II requirements. At the same time, the current owner would be unwilling to make so significant an investment in the face of pending sale. In those circumstances it makes eminent sense for the Commission to

afford the buyer of such a system some reasonable grace period (we suggest one year) in which to bring the system up to Phase II standards.

This is obviously not a process which can take place overnight. By permitting a buyer a reasonable period in which to effectuate the upgrade, the Commission would actually be taking the course most likely to ensure the prompt provision of E-911 service in those areas. The situation would be akin to permitting a buyer of a slum dwelling a grace period in which to bring the housing up to habitable standards. A prospective buyer of non-compliant housing would risk being in violation of housing codes as soon as it bought the dwelling. Absent such a grace period, the housing would not be bought at all, and the residents would continue to suffer. Given such a grace period, however, the chances very significantly increase that someone will come in and pay for the improvement necessary to bring the housing up to code without the risk of being held in violation while the repairs are being effectuated. Again, the public whom the Commission's E-911 policies are designed to protect will be the ultimate beneficiary. Forbearance is therefore also warranted in these transitional situations.

V. URGENT ACTION IS NECESSARY

Under Section 160 of the Communications Act, the Commission may take as long as 15 months to rule on Tier III's forbearance request. Because the Phase II timeliness now loom in about 8 months for even Tier III carriers, it is imperative that the Commission act promptly so that these carriers can begin the provisioning process necessary to meet the forbearance plan set out here and in Tier III's petition. Corr is already taking steps to implement Phase II 911, but the lack of a guarantee of meeting accuracy requirements by the deadline is causing considerable angst for choosing a solution. Unless the Commission acts by the end of February, it will be difficult, if not impossible, for Corr and other Tier III carriers to implement any Phase II plan at

all. For this reason, Corr respectfully urges the Commission to act speedily and favorably on this forbearance request.

Respectfully submitted,

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